

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

<b>RICHARD SEARS,</b>	:	<b>Civil No. 1:17-CV-50</b>
	:	
<b>Plaintiff</b>	:	
	:	<b>(Judge Kane)</b>
<b>v.</b>	:	
	:	<b>(Magistrate Judge Carlson)</b>
<b>VINCENT MOONEY, et al.,</b>	:	
	:	
<b>Defendants</b>	:	

**MEMORANDUM ORDER**

**I. Factual Background**

This is a civil action initiated by Richard Sears, a state inmate. Presently before the court is a motion for sanctions filed by Sears which seeks to sanction defense counsel for aspects of their advocacy, specifically statements made by counsel in briefs which Sears regarded as unfair and misleading. (Doc. 76.) This motion is fully briefed and is, therefore, ripe for resolution. While Sears' motion may identify certain ambiguities and minor inaccuracies in some defense filings, we believe these matters to be both inadvertent and wholly immaterial. Accordingly, for the reasons set forth below, this motion is DENIED.

## II. Discussion

The legal standards governing motions for sanctions are familiar ones. With respect to such motions, our exercise of discretion in this instance is guided by settled case law describing the responsibilities of the court when considering sanctions against parties. At the outset, it is well-settled that a district court has the inherent power to sanction parties appearing before it for refusing to comply with its orders and to control litigation before it. See, e.g., Tracinda Corp. v. DaimlerChrysler AG, 502 F.3d 212, 242 (3d Cir. 2007). Indeed, the inherent power of the Court to act in this area has long been recognized by the United States Supreme Court, which has held that:

It has long been understood that “[c]ertain implied powers must necessarily result to our Courts of justice from the nature of their institution,” powers “which cannot be dispensed with in a Court, because they are necessary to the exercise of all others.” United States v. Hudson, 7 Cranch 32, 34, 3 L.Ed. 259 (1812); see also Roadway Express, Inc. v. Piper, 447 U.S. 752, 764, 100 S.Ct. 2455, 2463, 65 L.Ed.2d 488 (1980) (citing Hudson). For this reason, “Courts of justice are universally acknowledged to be vested, by their very creation, with power to impose silence, respect, and decorum, in their presence, and submission to their lawful mandates.” Anderson v. Dunn, 6 Wheat. 204, 227, 5 L.Ed. 242 (1821); see also Ex parte Robinson, 19 Wall. 505, 510, 22 L.Ed. 205 (1874). These powers are “governed not by rule or statute but by the control necessarily vested in courts to manage their own affairs so as to achieve the orderly and expeditious disposition of cases.” Link v. Wabash R. Co., 370 U.S. 626, 630-631, 82 S.Ct. 1386, 1388-1389, 8 L.Ed.2d 734 (1962).

Chambers v. NASCO, Inc. 501 U.S. 32, 43 (1991).

Sanctions decisions rest in the sound discretion of the court and a decision denying a motion for sanctions may only be reviewed for abuse of discretion, which will be found only where “the court’s decision rests upon a clearly erroneous finding of fact, an errant conclusion of law or an improper application of law to fact.” In re Prudential Ins. Co. Am. Sales Practice Litig. Actions, 278 F.3d 175, 181 (3d Cir. 2002) (quoting In re Orthopedic Bone Screw Products Liability Litig., 193 F.3d 781, 795 (3d Cir. 1999)). In addition to the court’s inherent authority, “Rule 11 authorizes imposition of sanctions upon the signer of any pleading, motion or other paper that was presented for an improper purpose, e.g., ‘to harass or to cause unnecessary delay or needless increase in the cost of litigation.’ See Landon, 938 F.2d at 452. Rule 11 sanctions are based on ‘ “an objective standard of reasonableness under the circumstances.” ’ Id. at 453 n. 3 (quoting Mary Ann Pensiero, Inc. v. Lingle, 847 F.2d 90, 94 (3d Cir.1988)). Bad faith is not required. Id.; Jones, 899 F.2d at 1358.” Martin v. Brown, 63 F.3d 1252, 1264 (3d Cir. 1995). Furthermore, it is well-settled under Rule 11 that: “Sanctions are to be applied only ‘in the “exceptional circumstance” where a claim or motion is patently unmeritorious or frivolous.’ Doering v. Union County Bd. of Chosen Freeholders, 857 F.2d 191, 194 (3d Cir.1988) (citation omitted). Rule 11’s ‘primary purpose is not “wholesale fee shifting but [rather] correction of litigation abuse.” ’ Id. (alteration in original)

(citation omitted). It ‘must not be used as an automatic penalty against an attorney or party advocating the losing side of a dispute,’ and it ‘should not be applied to adventuresome, though responsible, lawyering which advocates creative legal theories.’ Mary Ann Pensiero, Inc. v. Lingle, 847 F.2d 90, 94 (3d Cir.1988) (citation omitted).” Ario v. Underwriting Members of Syndicate 53 at Lloyds for 1998 Year of Account, 618 F.3d 277, 297 (3d Cir. 2010), as amended (Dec. 7, 2010).

Moreover, the exercise of this discretion is guided by certain basic principles. Foremost among these principles is the tenet that sanctions should always be narrowly tailored to meet the misconduct, and should entail no greater punishment than is reasonably necessary to address the specific wrongdoing that confronts the court. See Klein v. Stahl, GMBH & Co., Maschinefabrik, 185 F.3d 98 (3d. Cir. 1999). This basic, but pivotal, aspect of the exercise of discretion in this area, has been voiced in many ways. Thus, it is well established that, “[b]ecause of their very potency, inherent powers must be exercised with restraint and discretion. A primary aspect of that discretion is the ability to fashion an appropriate sanction for conduct which abuses the judicial process.” Chambers v. NASCO, Inc. 501 U.S. at 44-45 (citation omitted). Therefore, in exercising this authority we are cautioned that:

[A] district court must ensure that there is an adequate factual predicate for flexing its substantial muscle under its inherent powers, and must also ensure that the sanction is tailored to address the harm identified. In exercising its discretion under its inherent powers, the court should be guided by the same considerations that guide it in the imposition of

sanctions under the Federal Rules. First, the court must consider the conduct at issue and explain why the conduct warrants sanction.

Republic of Philippines v. Westinghouse Elec. Corp. 43 F.3d at 74.

Moreover:

[H]aving evaluated the conduct at issue, the district court must specifically consider the range of permissible sanctions and explain why less severe alternatives to the sanction imposed are inadequate or inappropriate. Although the court need not “exhaust all other sanctioning mechanisms prior to resorting to its inherent power” (Landon v. Hunt, 938 F.2d at 450, 454 (3d Cir.1991)), the court must explain why it has chosen any particular sanction from the range of alternatives it has identified. See Poulis, 747 F.2d at 868 (sanctions under Fed.R.Civ.P. 16 and 37).

Id.

Here, judged against these benchmarks, Sears’ sanctions motion fails for a single, simple reason. Applying an “objective standard of reasonableness under the circumstances” Martin v. Brown, 63 F.3d 1252, 1264 (3d Cir. 1995), it cannot be said that defense counsel has acted with “an improper purpose, e.g., ‘to harass or to cause unnecessary delay or needless increase in the cost of litigation.’ ” Id. Since “[s]anctions are to be applied only ‘in the “exceptional circumstance” where a claim or motion is patently unmeritorious or frivolous.’ Doering v. Union County Bd. of Chosen Freeholders, 857 F.2d 191, 194 (3d Cir.1988) (citation omitted),” Ario v. Underwriting Members of Syndicate 53 at Lloyds for 1998 Year of Account, 618 F.3d 277, 297 (3d Cir. 2010), as amended (Dec. 7, 2010), there simply is nothing

about the alleged minor, inadvertent, and immaterial matters cited by Sears which warrants sanctions and this motion should be denied.

### **III. Order**

Accordingly, for the foregoing reasons, the plaintiff's motion for sanctions, (Doc. 76), is DENIED.

So ordered this 6<sup>th</sup> day of February 2019.

*S/Martin C. Carlson*

Martin C. Carlson

United States Magistrate Judge